

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

OSCAR ARMANDO RODRIGUEZ-  
ELVIR,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

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SA-14-CV-844-XR

SA-14-CR-96(1)-XR

**ORDER**

On this date the Court considered the Magistrate Judge's Report and Recommendation (docket no. 53) concerning Petitioner Oscar Rodriguez-Elvir's *pro se* motion to vacate or correct sentence under 28 U.S.C. § 2255 (docket no. 30). The Magistrate Judge recommends that Petitioner's motion be denied.

When a party objects to the Magistrate Judge's memorandum and recommendation, the Court is required to conduct a *de novo* review. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). However, when no objections are filed, the Court reviews the recommendation for clear error or findings contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.) *cert. denied*, 492 U.S. 918 (1989). The Magistrate Judge's recommendation was mailed by certified mail on May 26, 2015. Docket no. 55. It was initially returned to sender on June 12, 2015. Docket no. 57. It was re-

mailed by certified mail on June 22, 2015 (docket no. 58) and acknowledged as received on June 25, 2015 (docket no. 59). No objections have been filed in this case and the time for doing so has expired. Therefore, the Court reviews the recommendation for clear error.

The Court has reviewed the Report and Recommendation and finds that it is neither clearly erroneous nor contrary to law given the motion and the transcript from the evidentiary hearing (docket no. 56). *Wilson*, 864 F.2d at 1221. Accordingly, the Court ACCEPTS the Magistrate Judge's recommendation and ORDERS that Petitioner's § 2255 motion to vacate sentence (docket no. 30) is DENIED.

It is so ORDERED.

SIGNED this 15th day of July, 2015.

A handwritten signature in black ink, appearing to read 'Xavier Rodriguez', with a stylized flourish at the end.

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XAVIER RODRIGUEZ  
UNITED STATES DISTRICT JUDGE